

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
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CHAPTER 162

HOUSE BILL 2103

AN ACT

AMENDING SECTIONS 35-318 AND 41-192, ARIZONA REVISED STATUTES; RELATING TO
THE OFFICE OF THE STATE TREASURER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 35-318, Arizona Revised Statutes, is amended to
3 read:

4 35-318. Investment managers and advisors; treasury monies;
5 investment services account

6 A. The state treasurer may enter into an agreement with investment
7 managers to invest treasury monies or with advisors to recommend investment
8 strategies or tactics for the investment of treasury monies, INCLUDING LEGAL
9 ADVISORS. Qualification and selection of investment managers or advisors
10 pursuant to this section are exempt from title 41, chapter 23 but must be
11 conducted by a process that is substantially equivalent to procedures
12 prescribed by title 41, chapter 23. Managers or advisors who enter into a
13 contract pursuant to this section shall be paid from earnings on investments.
14 A contract established pursuant to this section may be annually renewable but
15 shall be limited to a period of not more than three years. A contract may be
16 cancelled by the treasurer with forty-five days' written notice.

17 B. An agreement established pursuant to subsection A of this section
18 shall require the investment manager to regularly account for, itemize and
19 inventory all securities under management consistent with the requirements of
20 section 35-317, subsections C, D and E and report the findings to the state
21 treasurer at least monthly or on demand.

22 C. The state treasurer shall maintain an investment services account
23 consisting of all monies for payment of contractual financial services
24 authorized by this section. The account shall consist of monies apportioned
25 from the investment earnings of assets under management that are necessary
26 for the payment of current contractual obligations.

27 D. Expenditures for investment management and advisory fees required
28 by contract pursuant to subsection A of this section shall be paid on
29 approval of the state treasurer from the investment services account
30 established by subsection C of this section.

31 Sec. 2. Section 41-192, Arizona Revised Statutes, is amended to read:

32 41-192. Powers and duties of attorney general; restrictions on
33 state agencies as to legal counsel; exceptions

34 A. The attorney general shall have charge of and direct the department
35 of law and shall serve as chief legal officer of the state. The attorney
36 general shall:

37 1. Be the legal advisor of the departments of this state and render
38 such legal services as the departments require.

39 2. Establish administrative and operational policies and procedures
40 within his department.

41 3. Approve long-range plans for developing departmental programs
42 therein, and coordinate the legal services required by other departments of
43 this state or other state agencies.

44 4. Represent school districts and governing boards of school districts
45 in any lawsuit involving a conflict of interest with other county offices.

1 5. Represent political subdivisions, school districts and
2 municipalities in suits to enforce state or federal statutes pertaining to
3 antitrust, restraint of trade or price-fixing activities or conspiracies,
4 ~~provided that~~ IF the attorney general shall ~~notify~~ NOTIFIES in writing such
5 THE political subdivisions, school districts and municipalities of the
6 attorney general's intention to bring any such action on its behalf. At any
7 time within thirty days after such THE notification, ~~such~~ THE political
8 subdivisions, school districts and municipalities may, by formal resolution
9 of its governing body, MAY withdraw the authority of the attorney general to
10 bring the intended action on its behalf.

11 6. In any action brought by the attorney general pursuant to state or
12 federal statutes pertaining to antitrust, restraint of trade, or price-fixing
13 activities or conspiracies for the recovery of damages by this state or any
14 of its political subdivisions, school districts or municipalities, in
15 addition to the attorney general's other powers and authority, the attorney
16 general on behalf of this state may enter into contracts relating to the
17 investigation and prosecution of such action with any other party plaintiff
18 who has brought a similar action for the recovery of damages and with whom
19 the attorney general finds it advantageous to act jointly or to share common
20 expenses or to cooperate in any manner relative to such action. In any such
21 action, notwithstanding any other laws to the contrary, the attorney general
22 may undertake, among other things, to render legal services as special
23 counsel or to obtain the legal services of special counsel from any
24 department or agency of the United States, of this state or any other state
25 or any department or agency thereof or any county, city, public corporation
26 or public district in this state or in any other state that has brought or
27 intends to bring a similar action for the recovery of damages or their duly
28 authorized legal representatives in such action.

29 7. Organize the civil rights division within the department of law and
30 administer such division pursuant to the powers and duties provided in
31 chapter 9 of this title.

32 8. Compile, publish and distribute to all state agencies, departments,
33 boards, commissions and councils, and to other persons and government
34 entities on request, at least every ten years, the Arizona agency handbook
35 that sets forth and explains the major state laws that govern state agencies,
36 including information on the laws relating to bribery, conflicts of interest,
37 contracting with the government, disclosure of public information,
38 discrimination, nepotism, financial disclosure, gifts and extra compensation,
39 incompatible employment, political activity by employees, public access and
40 misuse of public resources for personal gain. A supplement to the handbook
41 reflecting revisions to the information contained in the handbook shall be
42 compiled and distributed by the attorney general as deemed necessary.

43 B. Except as otherwise provided by law, the attorney general may:

44 1. Organize the department into such bureaus, subdivisions or units as
45 he deems most efficient and economical, and consolidate or abolish them.

1 2. Adopt rules for the orderly conduct of the business of the
2 department.

3 3. Employ and assign assistant attorneys general and other employees
4 necessary to perform the functions of the department.

5 4. Compromise or settle any action or claim by or against this state
6 or any department, board or agency thereof OF THIS STATE. ~~Where such~~ IF THE
7 compromise or settlement involves a particular department, board or agency of
8 this state, the compromise or settlement shall be first approved by ~~such~~ THE
9 department, board or agency. ~~Where~~ IF no department or agency is named or
10 otherwise materially involved, the approval of the governor shall be first
11 obtained.

12 5. Charge reasonable fees for distributing official publications,
13 including attorney general legal opinions and the Arizona agency handbook.
14 The fees received shall be transmitted to the state treasurer for deposit in
15 the state general fund.

16 C. Assistants and employees in any legal division subject to a merit
17 system prior to March 6, 1953 shall remain subject thereto.

18 D. The powers and duties of a bureau, subdivision or unit shall be
19 limited to those assigned by law to the department.

20 E. Notwithstanding any law to the contrary, except as provided in
21 subsections F and G of this section, no state agency other than the attorney
22 general shall employ legal counsel or make an expenditure or incur an
23 indebtedness for legal services, but the following are exempt from this
24 section:

25 1. The director of water resources.

26 2. The residential utility consumer office.

27 3. The industrial commission.

28 4. The Arizona board of regents.

29 5. The auditor general.

30 6. The corporation commissioners and the corporation commission other
31 than the securities division.

32 7. The advocate for private property rights.

33 8. The office of the governor.

34 9. The constitutional defense council.

35 10. THE OFFICE OF THE STATE TREASURER.

36 F. If the attorney general determines that he is disqualified from
37 providing judicial or quasi-judicial legal representation or legal services
38 on behalf of any state agency in relation to any matter, the attorney general
39 shall give written notification to the state agency affected. If the agency
40 has received written notification from the attorney general that the attorney
41 general is disqualified from providing judicial or quasi-judicial legal
42 representation or legal services in relation to any particular matter, the
43 state agency is authorized to make expenditures and incur indebtedness to
44 employ attorneys to provide the representation or services.

1 G. If the attorney general and the director of the department of
2 agriculture cannot agree on the final disposition of a pesticide complaint
3 under section 3-368, if the attorney general and the director determine that
4 a conflict of interest exists as to any matter or if the attorney general and
5 the director determine that the attorney general does not have the expertise
6 or attorneys available to handle a matter, the director is authorized to make
7 expenditures and incur indebtedness to employ attorneys to provide
8 representation or services to the department with regard to that matter.

9 H. Any department or agency of this state authorized by law to
10 maintain a legal division or incur expenses for legal services from funds
11 derived from sources other than the general revenue of the state, or from any
12 special or trust fund, shall pay from such source of revenue or special or
13 trust fund into the general fund of the state, to the extent such funds are
14 available and upon a reimbursable basis for warrants drawn, the amount
15 actually expended by the department of law within legislative appropriations
16 for such legal division or legal services.

17 I. Appropriations made pursuant to subsection H of this section shall
18 not be subject to lapsing provisions otherwise provided by law. Services for
19 departments or agencies to which this subsection and subsection G of this
20 section are applicable shall be performed by special or regular assistants to
21 the attorney general.

22 J. ~~Notwithstanding the provisions of section 35-148,~~ monies received
23 by the attorney general from charges to state agencies and political
24 subdivisions for legal services relating to interagency service agreements
25 shall be deposited, pursuant to sections 35-146 and 35-147, in an attorney
26 general agency services fund. Monies in the fund are subject to legislative
27 appropriation and are exempt from the provisions of section 35-190,— relating
28 to lapsing of appropriations.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.